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8 SIDNEY GORDON AND JEFFREY
9 TAUBER,
10 Plaintiffs,
11 v.
12 SIGMA DESIGNS, INC.,
13 Defendant.

14 Case No.[15-mc-80057-NC](#)

15 **TENTATIVE RULING ON MOTION
TO COMPEL**

16 Re: Dkt. No. 1

17 Petitioners Sidney Gordon and Jeffrey Tauber move to compel the production of
18 documents subpoenaed from non-party Sigma under Federal Rule of Civil Procedure 45.
19 A hearing on this matter is scheduled for tomorrow afternoon in front of this Court.

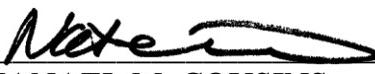
20 A party issuing a subpoena “must take reasonable steps to avoid imposing undue
21 burden or expense on a person subject to the subpoena.” Fed. R. Civ. P. 45(d)(1).
22 Moreover, the Court must limit discovery if it determines that the burden or expense of the
23 proposed discovery outweighs its likely benefit. Fed. R. Civ. P. 26(b)(2)(C).

24 Here, the Court’s tentative view is to deny petitioners’ motion to compel because
25 petitioners have not taken reasonable steps to avoid imposing undue burden, and have not
26 established the proportionality of their requests. *See Nalco Co. v. Turner Designs, Inc.*,
27 No. 13-cv-02727 NC, 2014 WL 1311571, at *1 (N.D. Cal. Mar. 31, 2014) (denying motion
28 to compel because subpoenaing party failed to take reasonable steps to avoid imposing
Case No.: [15-mc-80057-NC](#)

1 undue burden) (citing Fed. R. Civ. P. 45(d)(1)); *see also In re NCAA Student-Athlete Name*
2 & *Likeness Licensing Litig.*, No. 09-cv-01967 CW (NC), 2012 WL 629225, at *1 (N.D.
3 Cal. Feb. 27, 2012) (“[B]ecause antitrust plaintiffs did not make reasonable attempts to
4 avoid imposing an undue burden on the nonparties, sanctions against antitrust plaintiffs are
5 warranted under Rule 45.”); *Convolve, Inc. v. Dell, Inc.*, No. 10-cv-80071 WHA, 2011 WL
6 1766486, at *2 (N.D. Cal. May 9, 2011) (quashing subpoena and noting exhaustive
7 definitions to words such as “documents” and “identify” serve to further broaden the scope
8 of the subpoena unnecessarily).

9 **IT IS SO ORDERED.**

10 Dated: February 24, 2015



NATHANAEL M. COUSINS
United States Magistrate Judge

United States District Court
Northern District of California

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